IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

F.A.O. No.458 of 2005
Date of decision: 28.8.2006

State of Haryana and another.

..... Appellants

Versus

Mam Chand and others.

..... Respondents

CORAM : Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Rajiv Kawatra, Senior Deputy Advocate General,
Haryana for the appellants.
Shri R.N.Singal, Advocate for respondent no.7.

....

Mahesh Grover,J.

The appellants have assailed award dated 21.7.2004 passed by the Presiding Officer of the Motor Accident Claims Tribunal, Panchkula (hereinafter described as `the Tribunal') in M.A.C.T. Case No. 1 of 12.1.2001/3.6.2004.

In a motor vehicular accident which took place on 4.1.2001, one Pushpa Devi lost her life while alighting from the bus belonging to the appellants. The bus driver accelerated the speed while the deceased was getting down of it. She was 26 years of age and the Tribunal has awarded compensation to the tune of Rs.1,70,000/- along with interest at the rate of 6% per annum. Since the driving licence of the bus driver was found to be fake, the Tribunal, while directing the insurance company to pay the aforesaid amount of compensation to the claimants, gave liberty to it to

recover the same from the insured, i.e. the appellants. It is primarily against this part of the award of the Tribunal that the appellants have filed the present appeal.

Shri Rajiv Kawatra, learned Senior Deputy Advocate General, Haryana contended that the employment was given to the driver of the bus, Vijay Kumar, after the employer had satisfied himself that he was having a valid driving licence which subsequently turned out to be fake. He submitted that this would not absolve the Insurance Company of its liability to pay the compensation. In support of his contention, he relied upon a judgment of the Supreme Court reported as (2003) 3 S.C.C. 338 – United India Insurance Co.Ltd. Versus Lehri.

We have considered the contention of the learned counsel for the appellants and perused the record.

RW3-Sandeep Kumar, Clerk of the office of General Manager, Haryana Roadways, Ambala Depot, has testified that the drivers, who are employed with the Haryana Roadways, are imparted training of four days before they are entrusted with the duty of plying the buses. There is no denial to the fact that Vijay Kumar, the driver of the offending vehicle, was holding a fake driving licence which has been duly proved on record as such. The State and its instrumentalities cannot be equated with an ordinary employer for the simple reason that while taking persons in their employment, they have their own prescribed procedure of verification etc. The fact that the employment has been given to the drivers in such a callous manner on the basis of the fake driving licences by giving them training of four days only shows the apathy of the State and its instrumentalities. A precious life has been lost due to the callousness of the appellants. The

judgment cited by the learned counsel for the appellants does not enhance their case for the aforementioned reasons. Moreover, where the government or its instrumentalities/ agencies are the employer, the level of verification has to be much more stringent and on this count, the appellants cannot be absolved of their liability.

There is, thus, no infirmity in the findings of the Tribunal and the appeal, being devoid of any merit, is dismissed .

(Mahesh Grover)
Judge

August 28,2006
"SCM"

(Uma Nath Singh)
Judge